

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WAYNE THOMAS HART,

Plaintiff,

Case No. 1:15-cv-606

v

HON. JANET T. NEFF

90TH JUDICIAL DISTRICT
COURT et al.,

Defendants.

_____ /

OPINION AND ORDER

Plaintiff, proceeding *pro se*, filed this lawsuit seeking relief pertaining to his conviction in state court. The Magistrate Judge issued a Report and Recommendation (Dkt 8), recommending that this Court dismiss the action for lack of subject matter jurisdiction. Plaintiff has filed an Objection to the Report and Recommendation (Dkt 9). Plaintiff questions the Court's dismissal for lack of subject matter jurisdiction absent any challenge by Defendants. Pursuant to FED. R. CIV. P. 12(h)(3): "If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action."

This lawsuit arises from Plaintiff's state criminal case, and the Magistrate Judge properly concluded that this Court lacks subject matter jurisdiction over such lawsuits, which essentially challenge a conviction entered in state court. Plaintiff's Objection is therefore denied.¹

¹Plaintiff previously filed an nearly identical case, resulting in the same disposition. *See Hart v. Emmet County 90th District Court et al.*, Case No. 1:14-cv-924 (W.D. Mich.).

In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court denies the objection and adopts the Magistrate Judge's Report and Recommendation as the Opinion of this Court. A Judgment will be entered consistent with this Opinion and Order. *See* FED. R. CIV. P. 58.

Because this action was filed *in forma pauperis*, this Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal of this decision would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007).

THEREFORE, IT IS ORDERED that the Objection (Dkt 9) is DENIED, and the Report and Recommendation (Dkt 8) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that this case is DISMISSED for lack of subject matter jurisdiction.

IT IS FURTHER ORDERED that the Court certifies pursuant to 28 U.S.C. § 1915(a) that an appeal of the decision would not be taken in good faith.

Dated: July 20, 2015

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge